

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Jennifer Newnam et al

Serial No. 09/536,518

Examiner: R. Alvarez

Group Art Unit: 3622

Filed: March 22, 2000

Title: A Method and System of Playing and Controlling a Contest for a Large Number of Simultaneous Contestants

Commissioner for Patents
Washington, D.C. 20231

Declaration of Leszek Pawlowicz Under 37 C.F.R. § 1.132

Dear Sir:

In response to the Office Action dated September 27, 2002, I, Leszek Pawlowicz, declare as follows:

1. I currently reside at 428 Shongopovi Trail, Flagstaff Arizona.
2. I received a bachelors of arts *cum laude* with honors in Physics and Astronomy from Wesleyan University, Middletown, CT (1979).
3. I received a Ph.D. in Materials Science and Engineering from the Massachusetts Institute of Technology, Cambridge, MA (1987).
4. I consider myself an expert in games and in the playing of competitive games (especially trivia-based games) in view of at least the following experiences.
5. I have competed in and won the following televised game shows:

- a. Jeopardy!, October 1991, five-day winnings of \$75,400.
 - b. Winner of 8th Tournament of Champions, and top prize of \$100,000, Jeopardy! (syndicated), November 1992 (defeated best field in Tournament history). I am number 3 on combined 5-day winnings and Tournament of Champions winnings.
 - c. Win Ben Stein's Money (Comedy Central), August 1999, won top prize of \$5,000.
 - d. Who Wants To Be A Millionaire? (ABC), August 1999 and February 2000 (qualified for televised version using mass telephone qualification; no cash winnings on final televised version).
 - e. History IQ (History Channel), May and June 2001 - Second place in finals of four-round elimination tournament format. Winnings of \$9,100.
 - f. Who Wants To Be A Millionaire? (syndicated), September 2002 and August 2003 (tentative air date) - On- air "Phone-A-Friend" for contestants participating in the televised version of the show; successfully answered question both times.
6. I have competed in and won the following on-line trivia competitions:
- a. Jeopardy! Online and Trivial Pursuit Online - occasional play
(Note: Jeopardy Online was mentioned in the patent application specification).

b. Paranoia, April and May 2000 - Online component of Fox Family Channel TV game show. Won \$50 and new computer for the best online score.

c. GoldPocket.com, July 2000 - Won top prize of \$1 million annuity.

d. HistoryIQ, August 2000 to June 2001 - Won \$200 in gift certificates (maximum possible, in \$50 increments) for best score in online version of TV game show.

e. The Weakest Link, September 2001 to March 2002 - Regularly achieved high score in simultaneous competition synchronized with on-air game (NBC).

7. I have appeared in or been quoted, in connection with my game playing, in the following:

a. NY Times Sunday Magazine, "The Know it Alls," November 5, 2000, in which I was called "The Michael Jordan of game shows."

b. ABC News 20/20 News Magazine, "Know it Alls," January 5, 2001

c. National Public Radio, "To The Best Of Our Knowledge", February 2001.

d. National Public Radio, "Been There, Done That", September 2002.

e. Numerous other articles and appearances in Arizona media (TV, radio and newspapers), citations can be provided if needed.

8. I have reviewed the patent application, identified above, and have reviewed the Office Action of September 27, 2002 and the references cited therein.

9. In my opinion, the references cited in the Office Action, and for that matter all other games of which I am aware and which I know to have existed prior to March 22, 2000, are fundamentally different than the GoldPocket game. In my opinion and based on my knowledge of games, the GoldPocket game was unique, new and not obvious.

10. My view is based partly on both the time scale of the competition and the number of contestants competing simultaneously. Bringing together enormous numbers of contestants (e.g., tens of thousands or more) for a simultaneous real-time competition via the Internet had not been done prior to GoldPocket's competitions. Previous online games have been limited either in the number of simultaneous competitors, or in the requirement for extended periods of time for play, precisely because coordinating the results from a large numbers of players in real-time is not a trivial task with an obvious solution.

11. All on-line games of which I am aware that existed before March 22, 2000 and that allowed contestants to simultaneously compete against one another had a highly limited number of contestants (e.g., the games cited in the patent office rejection).

12. In my view, if the GoldPocket approach were obvious, there was ample opportunity for others to "beat them to the punch." The Internet existed before GoldPocket, the

game structure used by GoldPocket was known before GoldPocket used it, and the concept of a game having a lot of contestants was known. However, at the time, no one (for whatever reason) seemed to realize or appreciate the idea of putting together a game that would allow an enormous number of contestants to compete simultaneously in a game that would end relatively quickly. This is non-trivial. The excitement generated by the idea of an enormous number of people and the fast game resolution helped ensure that, in fact, a lot of contestants would register and play.

13. The enormous number of people made the game exciting, different and interesting in ways unlike other games. Essentially you would play against anyone who dared, instead of the select few chosen by the management of a game show. Having the game end in a short period made the game exciting in its own unique way, because to win you had to be continually correct without huge breaks (days or weeks) between questions. The above excitement in some sense was instrumental to success. If the game were not exciting, it would be difficult to attract the huge number of contestants. In my view, a key point is that the GoldPocket game was capable of bringing together and in fact brought together a large number of contestants to compete simultaneously in real-time over the Internet.

14. As I noted above, I won a significant sum of money from winning GoldPocket's game. That money, however, has been paid to me already, and my views expressed above have been in no way influenced by winning the game. Moreover, I am being compensated only for my time in preparing this declaration (on a time and materials basis), and my views herein are entirely independent of that compensation. Specifically, I am being compensated at the normal hourly rate that I charge as a Web consultant.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date March 18, 2003


Leszek Pawlowicz